

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

UNITED STATES OF AMERICA,	§	
	§	
Plaintiff,	§	No. 4:10-cr-00459-3
	§	
V.	§	JUDGE KENNETH M. HOYT
	§	
	§	
EFRAIN RODRIGUEZ-MENDOZA,	§	
	§	<i>This is a Capital Case</i>
Defendant.	§	

**UNOPPOSED MOTION TO SUSPEND  
SCHEDULING ORDER FOR PROCEEDINGS FOLLOWING  
DISPOSITION OF ATKINS CLAIM**

TO THE HONORABLE KENNETH M. HOYT:

The Defendant, Efrain Rodriguez-Mendoza, through the undersigned counsel, hereby respectfully request that the Court grant this unopposed request to suspend the current scheduling order for proceedings following disposition of the Defendant's claim for relief under *Atkins v. Virginia*, 536 U.S. 304 (2002). Reasons follow:

1. As the Court is aware, the parties have continued discussions regarding a potential negotiated resolution of this case. The Defendant has submitted a request to the Government to deauthorize this case and withdraw the Notice of Intent to Seek a Death Sentence. If granted, the Defendant's deauthorization request would obviate the need for additional briefing or an evidentiary hearing on the *Atkins* claim. Deauthorization may also obviate the need for any additional pre-trial litigation or a trial. The Government is still considering the request to deauthorize.

2. Because deauthorization is still pending, on July 11, 2022, the parties jointly moved for a continuance of the *Atkins* hearing and briefing schedule (ECF 773). The pending motion proposed the *Atkins*-related proceedings to be rescheduled as follows: (1) the Government's *Atkins* Response shall be due on February 15, 2023; (2) Mr. Rodriguez-Mendoza's reply brief shall be due by March 15, 2023; (3) the *Atkins* hearing shall begin on April 17, 2023; (4) proposed findings of fact and conclusions of law shall be submitted within 30 days of the availability of the transcripts for the *Atkins* hearing; and (5) the parties' responses to the proposed findings of fact and conclusions of law shall be submitted within 15 days of the proposed findings. However, the parties' pending motion did not address the Court's March 11, 2021, scheduling order for proceedings to follow disposition of *Atkins* Claim. (ECF 620).

3. Accordingly, the parties now respectfully request that in addition to granting the pending motion to continue the *Atkins*-related litigation (ECF 773), the Court also suspend the current scheduling order for proceedings following disposition of the *Atkins* claim, until such time as the pending deauthorization and *Atkins* litigation are resolved. This request will provide the parties an opportunity to resolve this case while avoiding the unnecessary expense of judicial resources. If at any time it appears that a negotiated resolution of this case will not be reached, the parties will jointly propose a new scheduling order for proceedings following disposition of the *Atkins* Claim.

4. This motion is not intended for delay, but rather to allow justice to be done in this complex capital case. The defense is requesting this schedule so that counsel can provide effective representation, consistent with their obligations under the Sixth and Eighth Amendments. All limits under the Speedy Trial Act continue to be waived by the filing of this motion.

5. Counsel for Mr. Rodriguez-Mendoza have conferred with counsel for the Government, who is not opposed to this request.

WHEREFORE, for the reasons set forth herein, the parties respectfully request that the Court grant this motion. (A proposed order is attached.)

Respectfully submitted,

/S/ Victor J. Abreu

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Attorneys for Defendant  
Efrain Rodriguez-Mendoza

Dated: July 29, 2022

CERTIFICATE OF SERVICE

I hereby certify that on July 29, 2022, the foregoing was filed electronically with the Clerk of the Court to be served by operation of the Court's electronic filing system on counsel of record for the above captioned case.

/S/ Victor J. Abreu  
Victor J. Abreu